

**IN THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, PALA**

**Present:- Sri. K.P. Pradeep, The MACT**

**Tuesday, the 24<sup>th</sup> day of March, 2026**

**03<sup>rd</sup> day of Chaithra, 1948**

**OP (M.V) No.598/2021**

**Petitioner:-**

1. Parameswaran A P, Ambattumepurathu, Kozhuvanal P.O,  
Kottayam District, Pin: 686 573 ( Died)

Addl. Nirmala P.N, W/o Late Parameswaran A P,  
P2 Ambattumepurath (H), Kozhuvanal P.O, Kottayam

Addl. Nithya P, W/o Vipinponni K A, Ponnalayam, Kochukkal,  
P3 Mavelikkara P.O, Alappuzha District

Addl. Nimisha P, W/o Arunnath A.S, Arunalaym, Paduva P O,  
P4 Pattialimattam, Kottayam district

Addl. Petitioners 2 to 4 impleaded as the legal heirs of  
deceased petitioner as per order on 2/22 dated 02.07.2022

By Adv.Gigi Thomas & Adv. Remya Rose George

**Respondents :-**

1. Akhil Shaji, S/o K.S Shaji, Kollamyalil House, Punnathuara  
East P.O, Kottayam District, Pin: 686 583

2. The New India Assurane Co Ltd, Edens shopping Centre,  
Pala road, Ettumanoor.

R1- Ex-parte

R2- By Adv. Abraham J Mattam

This O.P. having been finally heard on 25.02.2026 and the  
Tribunal on 24.03.2026 passed the following :-

**AWARD**

Petition filed under section 166 of the Motor Vehicles Act 1988. During the pendency of the original petition, the original petitioner (Parameswaran A.P, S/o Velu) died not due to the injury sustained in the accident and his legal heirs were impleaded as additional petitioners 2 to 4 as per order in I.A 2/2022 dated 2.7.2022.

2. The averments in the petition are that, on 10.10.2020 at 7.20 p.m., the original petitioner (Prameswaran A.P) was travelling on his scooter bearing Reg. No KL-05-AB-293 from Paduva - Kidangoor public road. When he reached the place of occurrence, a motorcycle bearing No. KL-05-AJ-4007 ridden by the 1<sup>st</sup> respondent came in a rash and negligent manner, collided with the scooter on which the original petitioner was travelling. As a result of which, the original petitioner sustained severe injuries. The accident occurred due to rash and negligent riding of motorcycle bearing No KL-05-AJ-4007 by the 1<sup>st</sup> respondent.

3. Immediately after the accident he was taken to Little Lourdes Mission Hospital, Kidangoor and thereafter he was referred to Medical College Hospital, Kottayam and treated there as inpatient from 11.10.2020 to 13.10.2020. The respondents 1 and 2 are the owner-cum-rider and insurer of the motorcycle bearing No KL-05-AJ-4007. At the time of accident, the original petitioner was 'Carpenter' and he would earn Rs.25,000/- as monthly income.

4. The respondent No 1 did not file written statement hence he was called absent and set exparte.

5. The 2<sup>nd</sup> respondent filed written statement by contending that the motorcycle bearing No KL-05-AJ-4007 had been insured with 1<sup>st</sup> respondent. Age, occupation and income of the original petitioner mentioned in the petition are not correct. The petition was filed in collusion between the petitioner and 1<sup>st</sup> respondent. The amount of compensation claimed is highly exorbitant. Hence, the company is not liable to pay compensation.

6. In view of the above said pleadings, the following issues have been raised for consideration:-

- (1) Whether the accident occurred due to the rash and negligent riding of motorcycle bearing No KL-05-AJ-4007 by the 1<sup>st</sup> respondent?
- (2) Whether the petitioner is entitled to compensation and if so, what is the quantum?
- (3) Who is liable to pay compensation ?
- (4) Reliefs and costs ?

7. No oral evidence was adduced from the side of the addl petitioners. In order to prove the alleged accident and negligence on part of the 1<sup>st</sup> respondent, the addl petitioners have produced Exts.A1 to A18 and the same were marked. No oral and documentary evidence was adduced on the side of the 2<sup>nd</sup>

respondent.

8. Heard.

9. **Issue No.(1)**:- The case of the petitioners is that on 10.10.2020 at 7.20 p.m., the original petitioner (Prameswaran A.P) was travelling on his scooter bearing Reg. No KL-05-AB-293 from Paduva - Kidangoor public road. When he reached the place of occurrence, a motorcycle bearing No KL-05-AJ-4007 ridden by the 1<sup>st</sup> respondent came in a rash and negligent manner, collided with the scooter on which the original petitioner was travelling. As a result of which, the original petitioner sustained severe injuries. The accident occurred due to rash and negligent riding of motorcycle bearing No KL-05-AJ-4007 by the 1<sup>st</sup> respondent.

10. To prove the alleged incident and negligence on the part of the 1<sup>st</sup> respondent, petitioners have produced Exts.A1 to A5 and A7. Ext.A1 is the copy of the FIR in crime No.835/2020 of Kidangoor police station. Ext.A2 is the copy of the FIS. Ext A3 is the copy of scene mahazar. Exts A4 and A5 are the copies of AMVI report of the vehicles involved in the accident. Ext A7 is the copy of Final report. The offences alleged against the rider of motorcycle, the 1<sup>st</sup> respondent (accused in the final report) are punishable u/ss 279 and 338 of IPC. The Hon'ble High Court of Kerala in '**New India Assurance Company Ltd Vs. Pazhaniammal and Others**', cited

**in 2011(3) KHC 595**, has held as follows: *“Prima facie, charge sheet filed by a police officer after due investigation can be accepted as evidence of negligence against the indictee. If any one of the parties do not accept such charge sheet, the burden must be on such party to adduce oral evidence. If oral evidence is adduced by any party, in a case where charge sheet is filed, the tribunals should give further opportunity to others also to adduce oral evidence and in such a case the charge sheet will pale into insignificance and the dispute will have to be decided on the basis of the evidence.”* In the absence of contra evidence, the above said evidence adduced by the petitioners, it is seen that the alleged incident took place due to the rash and negligent riding of motorcycle bearing No KL-05-AJ-4007 by the 1<sup>st</sup> respondent. Accordingly Issue No.(1) is answered.

11. **Issue No.(2)**:- Exts.A6 is the copy of wound certificate issued from LLM hospital, Kidangoor. Ext A8 is the discharge card issued from Medical College Hospital, Kottayam. Ext A11 series are the OP tickets issued from MCH, Kottayam. Ext A12 is the medical certificate issued from MCH Kottayam. The above said medical record reveals that original petitioner sustained, closed fracture both bone distal third right leg, closed displaced lateral, condyle fracture, right tibia right, closed fracture base of fourth metacarpal base right.

12. Ext A13 is the death certificate issued from Akalakunnam Grama Panchayath. Ext A14 is the family membership certificate issued from Village Officer, Akalakunnam. It shows that the addl petitioners 2 to 4 are the wife and daughters of the deceased Parameswaran.

13. Ext A9 series and A10 series are the medical bills and ambulance bills produced by the addl petitioners.

14. Ext A15 is the copy of Aadhar card of the original petitioner and in which the date of birth of the original petitioner was shown as 15.05.1958.

15. Ext.A16 series are the copies of bank pass books, Ext 17 series are the Aadhar cards and Exts A18 series are the PAN cards of the addl petitioners 2 to 4.

16. The original petitioner claim to be 'carpenter' and aged 65 years of age at the time of accident. But there is nothing on record to show how much the original petitioner was earning at the time of accident. So, for the purpose of determining the compensation payable under the head 'loss of earning' and the like, the only option left is to fix his monthly income notionally. In **Ramachandrappa's Case, the Hon'ble Supreme Court in 2011(13) SCC 236** had fixed Rs.4,500/- as notional income of Coolie worker in the year 2004, when the victim was 37 years of age. In **Sayed Sadique Case [2014] 2 SCC 735**, the income of the victim aged 24 years in the

year 2008, Rs.6,500/-was fixed for Coolie worker.

17. In a motor accident cases to grant compensation notional income has to be fixed. At the time of fixing the notional income the Court has to consider the minimum wages Act applicable in Kerala. At the same time in the absence of any salary certificate the minimum wage notification can be yard-stick, but at the same time it cannot be absolute one to fix the income. In the absence of documentary evidence on record some amount of guess work is required to done. But at the same time guess work for assessing the income should not be totally detached from the reality. Accordingly experienced claimant was unable to produce documentary evidence to show the monthly income same does not justifies adoption of loss tier of minimum wage while computing the income. Here in this case the petitioners claim that the original petitioner was working as 'carpenter'. Original petitioner had 65 years of age at the time of accident. Considering the age, nature of work and other relevant aspects, I am of the view that notional income of the petitioner is fixed as Rs.19,000/- per month.

18. The death of the original petitioner was not due to injury sustained. The said injuries sustained by the original petitioner prevented his from doing work atleast for 3 months. Therefore, I am inclined to award an amount of Rs.57,000/- (19000 x 3 months) under the head 'loss of earning' for the said period of 3 months.

19. Considering his visits to hospital in connection with treatment, an amount of Rs.6,000/- is awarded as 'Transportation expense'.

20. Considering the injury sustained by the petitioner, I feel it just and proper to award an amount of Rs.3,000/- as Extra Nourishment expense.

21. I am also inclined to award an amount of Rs.2,000/- as 'Damages to clothing'.

22. Since the petitioner sustained grievous injury he was admitted in the hospital for 3 days and therefore he could not have performed his day to day activities without the help of others. Therefore, I am inclined to grant ₹1,350/- (450 x3) as 'Bystander Expense for 3 days.

23. In Ext.A9 series bills the addl petitioners have claimed a total amount of Rs.5,565/- was spent for treatment of original petitioner. Both parties admitted the amount and that can be granted as 'Medical expense'. Hence medical expense is granted as Rs.5,565/-.

24. Taking into account of the injuries sustained by the original petitioner, I am inclined to award an amount of Rs.80,000/- under the head 'Pain and suffering'.

25. Considering the discomfort, unhappiness and inconvenience, the original petitioner faced on account of the said

injuries sustained in the accident, an amount of Rs.20,000/- is also awarded as compensation for 'loss of amenities of life'.

26. Original petitioner died not due to the injury sustained in the petition and at the same time, nothing was brought on record to prove the fact that the original petitioner had sustained any permanent disability due to the injury sustained. Hence I am not inclined to award any amount as compensation for 'permanent disability' claimed in the original petition.

27. The additional petitioner No. 2 is thus entitled to get a total compensation of **Rs.1,74,950/-(Rupees One Lakh Seventy-four Thousand Nine Hundred and Fifty Only)**, as shown in the table below:

<i>Sl. No.</i>	<i>Head of claim</i>	<i>Amount claimed (in Rupees)</i>	<i>Amount awarded (in Rupees)</i>	<i>(in Paise)</i>	<i>Basis-Vital Details in a nut shell</i>
<u>PART I</u>					
1	Loss of earning	150,000	57,000	-	19000 x 3
2	Partial loss of earning	Nil	Nil	-	-
3	Transportation charges including Ambulance charges	10,000	6,000	-	Travel to and from the hospital
4	Extra Nourishment	10,000	3,000	-	Considering the injury sustained by the original petitioner
5	By-stander expenses	10,000	1,350		450 x 3
6	Damage to Clothing	3,000	2,000	-	-
7	Medical expenses	10,000	5,565	-	As per Ext A9 series medical bills produced

<u>PART- II</u>					
8	Pain and suffering	1,00,000	80,000	-	Considering the injury sustained by the petitioner
9	Compensation for continuing or permanent disability	1,00,000	Nil	-	-
10	Compensation for loss of earning power	1,00,000	Nil		
11	Loss of amenities of life, mental agony etc		20,000	-	Considering the injury sustained by the petitioner
12	Compensation for future treatment	50,000	Nil		
Claim is limited to Rs.5,00,000/		5,43,000/- =====			
<b>Total award amount</b>					<b>Rs.1,74,915/-</b> =====
<b>Rounded off</b>					<b>Rs.1,74,950/-</b> =====
<b>(Rupees One Lakh Seventy-four Thousand Nine Hundred and Fifty Only)</b>					

28. In the matter of apportionment, the entire award amount with interest and costs shall be apportioned in the name of addl 2<sup>nd</sup> petitioner wife of the original petitioner. Accordingly Issue No.(2) is answered.

29. **Issue No.(3)**:- I have already found that the accident took place due to the negligent riding of motorcycle bearing No KL-05-AJ-4007 by the 1<sup>st</sup> respondent who is the owner-cum- rider of the said vehicle is therefore vicariously liable to compensate the petitioner. It is admitted by the 2<sup>nd</sup> respondent that the said motorcycle had been insured with the 2<sup>nd</sup> respondent at the time of accident. Therefore, the respondents 1 and 2 are liable to pay compensation. Since there is valid insurance policy, the company

has to indemnify the 1<sup>st</sup> respondent and therefore, the company is liable to pay the compensation. Accordingly Issue No.(3) is answered.

30. **Issue No.(4):-** In view of my findings on Issue Nos.(1), (2) and (3), the petition is allowed and award is passed as follows:-

- (1) The 2<sup>nd</sup> respondent shall pay an amount of **Rs.1,74,950/-(Rupees One Lakh Seventy-four Thousand Nine Hundred and Fifty Only)**, to the 2<sup>nd</sup> additional petitioner together with interest at the rate of 9% per annum from the date of petition (13.07.2021) till realization, with proportionate costs.
- (2) The 2<sup>nd</sup> respondent is directed to deposit the award amount together with interest and costs to the account of the petitioner ie, the Savings Bank Account of the petitioner, Account Number 57050842752 of State Bank of India., Pallikkathodu Branch with IFSC: SBIN0070247 as per the details produced by the petitioner and compliance of the same shall be reported to the MACT, Pala.
- (3) The 2<sup>nd</sup> respondent shall produce cheques for Rs.4,373/- and Rs.5,000/- respectively as court fee and additional court fee towards legal benefit fund in the name of MACT, Pala, payable in the case.
- (4) The 2<sup>nd</sup> respondent is directed to file before the Tribunal a statement regarding compliance of the order along with a copy of transaction record certified by the bank concerned.
- (5) The office is directed to furnish a copy of said statement to the petitioner after due verification.
- (6) The office is directed to make necessary entries in the registers maintained in the office evidencing payment of amount to the claimant.
- (7) The 2<sup>nd</sup> respondent is directed to pay the amount within one month

failing which the petitioner can recover the same in accordance with law.

*Dictated to the Confidential Assistant., transcribed and typed by her, corrected by me and pronounced in open court on this the 24<sup>th</sup> day of March, 2026.*

Sd/-

**K.P.PRADEEP**  
**MOTOR ACCIDENTS CLAIMS TRIBUNAL.**

**APPENDIX**

**EXHIBITS MARKED FOR THE PETITIONER**

A1	12.10.2020	:	Certified copy of the FIR in Cr. No. 835/2020 of Kidangoor police station
A2	12.10.2020	:	Certified copy of the FIS given by Parameswaran
A3	12.10.2020	:	Certified copy of the Scene mahazar
A4	20.10.2020	:	Certified copy of the AMVI report of the motorcycle bearing Reg. No. KL-05-AB-293
A5	20.10.2020	:	Certified copy of the AMVI report of the motorcycle bearing Reg. No. KL-05-AJ-4007
A6	21.10.2020	:	Certified copy of wound certificate issued from LLM hospital, Kidangoor
A7	30.10.2020	:	Certified copy of final report
A8	13.10.2020	:	Discharge card issued from MCH, Kottayam
A9 (series)	-	:	Medical Bills for Rs. 5,565/- (14 pages)
A10 (series)	-	:	Ambulance Bills for Rs. 3,565/- (3 Nos)
A11 (series)	-	:	OP tickets issued from MCH, Kottayam
A12	21.10.2020	:	Medical certificate issued from MCH, Kottayam

A13	28.10.2021	:	Death certificate of Parameswaran issued from Akalakunnam Grama Panchayat
A14	18.03.2022	:	Family membership certificate of deceased Parameswaran issued from village officer, Akalakunnam Village office
A15	23.11.2013	:	True copy of the Aadhaar card of Parameswaram
A16 (series)	-	:	Photocopy of the bank passbook of Nirmala P.N, Nithya P & Nimisha P
A17	-	:	True copy of the Aadhaar cards of Nirmala P.N, Nithya P & Nimisha P
A18	-	:	Photocopy of the pan cards of Nirmala P.N, Nithya P & Nimisha P

EXHIBITS MARKED FOR THE RESPONDENTS:- NIL

COURT EXHIBITS :-NIL

THIRD PARTY EXHIBITS:- NIL

WITNESS EXAMINED FOR BOTH PARTIES:- NIL

Id/-  
**MACT**

**STATEMENT OF COSTS**  
**OP(MV) No.598/2021**

Court Fee	:	1,122.00
Stamp for Vakkalath	:	6.00
Stamp for Exhibits	:	60.00
Stamp for petitions	:	60.00
Process	:	100.00
Advocate fee	:	11,147.00
Others	:	300.00

LBF	:	1,749.00
<b>Total</b>	:	<b>₹.14,544.00/-</b>

$$\text{Proportionate Costs} = \frac{14544 \times 174950}{5,00,000} = \text{₹ } 5,089/- \text{ (Allowed)}$$

=====

// True copy//

Typed by : Greeshma.  
 Compared by : Jobimol

Sd/-

**Motor Accidents Claims Tribunal**

"The parties should apply as soon as possible for the return of all documents which they may wish to preserve; as the record will be liable to be destroyed after twelve years from this date".

**COPY OF AWARD in**  
**OP (MV) 598/2021**  
**Dated:24.03.2026**